

# Notice of Allowability

Application No.

10/031,112

Examiner

Mr. Terry K. Cecil

Applicant(s)

CORK ET AL

Art Unit

1723

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 12-15-2005 and the telephonic interview of 4-13-2005.
2. ☒ The allowed claim(s) is/are 34-81 respectively renumbered upon allowance as claims 1-34, 37-39, 35-36, 40-44, 46, 45, and 47-48.
3. ☒ The drawings filed on 7-2-2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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*Note: Claims 34-81 are allowed and have been respectively renumbered upon allowance as claims 1-34, 37-39, 35-36, 40-44, 46, 45, and 47-48.*

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with G. McFarron on 4-13-2005.

2. The application has been amended as follows:

- Claim 34, line 15, after treatment device; “and” has been deleted; and in line 21 after “subject”, the following has been added: —; and a controller adapted to receive signals from said sensor and control the blood treatment device in response thereto—.
- Claim 35 has been amended as follows:  
—35. (currently amended) The system of claim 34 in which the sensor generates a signal responsive to one or more selected characteristics of the fluid in one of the fluid flow paths, ~~the suspension treatment device including a controller adapted to receive the sensor signal and to control the treatment device in response thereto.~~
- Specification, **page 1**, above the paragraph beginning at line 10, the following has been added: —This application claims the benefit of provisional application No. 60/216,460, filed on July 7, 2000.—; on **page 2**, line 17, “bloods” has been replaced with —blood—; on **page**

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10, line 22, “comprises” has been replaced with —comprise—; **page 29**, line 6, “4,562,416” has been replaced with —5,462,416—; and on **page 30**, line 9, “120” has been deleted.

***Reasons for Allowance***

3. The following is an examiner's statement of reasons for allowance:

- The closest cited art—Mian et al.—fails to anticipate or render obvious, alone or in any proper combination, the microelectromechanical sensor sensing a biological or chemical characteristic of the fluid in the flow path while the first flow path is in continuing, direct communication with the vascular system of the human subject and the controller adapted to control the blood treatment device in response to signals from the microelectromechanical sensor—in combination with all the other limitations of claim 34. See applicant’s arguments of pages 17-19 concerning Mian.

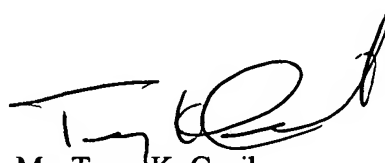
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
April 13, 2005